

1 EDMUND G. BROWN JR.
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 BRIAN G. WALSH
Deputy Attorney General
4 State Bar No. 207621
300 So. Spring Street, Suite 1702,
5 Los Angeles, CA 90013
Telephone: (213) 897-2535
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. *2010-561*

ACCUSATION

12 **BRANISLAV MIHAYLOVICH**
13 **2700 Cahuenga Blvd.**
Apt. 2216
14 **Los Angeles, CA 90068**
15 **Registered Nurse License No. RN 204734**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
21 of Consumer Affairs.

22 2. On or about February 28, 1970, the Board of Registered Nursing (Board) issued
23 Registered Nurse License Number RN 204734 to Branislav Mihaylovich (Respondent). The
24 Registered Nurse License was in full force and effect at all times relevant to the charges brought
25 herein and will expire on December 31, 2011, unless renewed.

26 ///

27 ///

28 ///

1 ///

2 **JURISDICTION**

3 3. This Accusation is brought before the Board under the authority of the following
4 laws. All section references are to the Business and Professions Code unless otherwise indicated.

5 4. Section 2750 provides, in pertinent part, that the Board may discipline any licensee,
6 including a licensee holding a temporary or an inactive license, for any reason provided in
7 Article 3 (commencing with section 2750) of the Nursing Practice Act.

8 5. Section 2761 states, in pertinent part:

9 "The board may take disciplinary action against a certified or licensed nurse or deny an
10 application for a certificate or license for any of the following:

11 "(a) Unprofessional conduct

12

13 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
14 functions, and duties of a registered nurse, in which event the record of the conviction shall be
15 conclusive evidence thereof."

16 6. Section 2762 states, in pertinent part:

17 "In addition to other acts constituting unprofessional conduct within the meaning of this
18 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
19 chapter to do any of the following:

20

21 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
22 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
23 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
24 himself or herself, any other person, or the public or to the extent that such use impairs his or her
25 ability to conduct with safety to the public the practice authorized by his or her license.

26 "(c) Be convicted of a criminal offense involving the prescription, consumption, or
27 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
28 or the possession of, or falsification of a record pertaining to, the substances described in

subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof."

7. Section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Section 2811(b) provides, in pertinent part, that the Board may renew an expired license at any time within eight years after the expiration.

REGULATORY PROVISION

8. California Code of Regulations, title 16, section 1444, states, in pertinent part:

"A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare."

COST RECOVERY PROVISION

9. Section 125.3 provides, in pertinent part, that the Board may request that the administrative law judge direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Substantially-Related Crime)

10. Respondent is subject to disciplinary action under section 2761, subdivision (f), in conjunction with California Code of Regulations, title 16, section 1444, as a result of his conviction of a crime that is substantially related to the qualifications, functions, and duties of a licensed registered nurse, as follows:

a. On or about July 28, 2008, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b) [driving with a blood-alcohol content greater than .08%] in the criminal proceeding entitled *The People of the State of California v. Branislav Mihaylovich* (Super. Ct. Los Angeles County, 2008,

No. 8MP08667). Respondent was placed on three years probation, and ordered to complete a three-month alcohol-counseling program.

b. The underlying factual circumstances occurred on or about July 6, 2008, when police officers responded to the scene of a curbside automobile accident involving Respondent and his car. The officers arrested Respondent after observing objective signs of intoxication and booked him at the Hollywood Police Station, where his blood-alcohol content measured .20%, more than twice the legal limit.

SECOND CAUSE FOR DISCIPLINE

(Dangerous Use of Alcohol)

11. Respondent is subject to disciplinary action under section 2761, subdivision (a), in conjunction with section 2762, subdivision (b), as a result of Respondent's use of alcohol in a manner that was dangerous to himself and others. Complainant refers to and incorporates all the allegations contained in paragraph 10, including its subparagraphs, as though set forth fully.

THIRD CAUSE FOR DISCIPLINE

(Conviction Involving the Consumption of Alcohol)

12. Respondent is subject to disciplinary action under section 2761, subdivision (a), in conjunction with section 2762, subdivision (b), as a result of Respondent's conviction involving the consumption of alcohol. Complainant refers to and incorporates all the allegations contained in paragraph 10, including its subparagraphs, as though set forth fully.

///

///

///

///

///

///

///

///

///

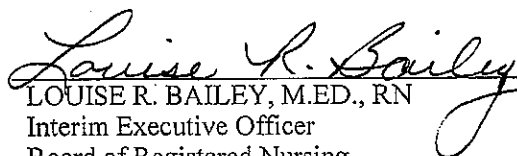
PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Registered Nurse License Number RN 204734, issued to Respondent;
2. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: _____

4/30/10


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

LA2010600074
accusation.rtf